

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:05-cr-190

v.

Hon. Gordon J. Quist

TODD KEVIN COOPER,

Defendant.

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**AMENDED REPORT AND RECOMMENDATION**

Pursuant to W.D. MICH. L.CR.R. 11.1, I conducted a plea hearing in the captioned case on December 8, 2005, after receiving the written consent of defendant and all counsel. At the hearing, defendant Todd Kevin Cooper entered a plea of guilty to the Indictment, charging defendant with false personation of an officer or employee of the United States in violation of 18 U.S.C. § 912, in exchange for the undertakings made by the government in the written plea agreement. On the basis of the record made at the hearing, I find that defendant is fully capable and competent to enter an informed plea; that the plea is made knowingly and with full understanding of each of the rights waived by defendant; that it is made voluntarily and free from any force, threats, or promises, apart from the promises in the plea agreement; that the defendant understands the nature of the charge and penalties provided by law; and that the plea has a sufficient basis in fact.

However, in accordance with the plea agreement, I recommend that acceptance of defendant's plea of guilty to the Indictment be taken under advisement by the court and that the defendant be referred to and accepted into the pretrial diversion program in accord with the plea agreement and the report of the Pretrial Services Division of the Probation Department.

Further, I recommend that the plea be accepted only at the time of sentencing if sentencing were ever to occur if it is found that the defendant failed in the Pretrial Diversion Program. Acceptance of the plea, adjudication of guilt, acceptance of the plea agreement, and imposition of sentence are specifically reserved for the district judge for a time to be set only if the defendant fails at Pretrial Diversion.

If at the end of one year in the diversion program the defendant is successful, I recommend that the charges in the Indictment be dismissed with prejudice.

Dated: December 14, 2005

/s/ Ellen S. Carmody

ELLEN S. CARMODY

United States Magistrate Judge

#### **NOTICE TO PARTIES**

You have the right to de novo review of the foregoing findings by the district judge. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than ten days after the plea hearing. *See* W.D. MICH. L.CR.R. 11.1(d).